

Appln. No. 10/576,004  
Amnd. Dated: December 22, 2009  
Office Action dated: June 19, 2009

**REMARKS**

Claims 1, 2, and 5-16 are pending in the instant application. Claims 1, 2 and 5-13 stand rejected under 35 U.S.C. §101 as not being one of the four statutory classes of invention. Claim 14 stands rejected under 35 U.S.C. §112, first paragraph for failing to comply with the written description requirement. The application has been amended. The claims have been amended. Applicant respectfully submits that none of the amendments constitute new matter in contravention of 35 U.S.C. §132. Reconsideration is respectfully requested.

First, Applicant gratefully acknowledges the indicated allowability of claim 16.

Claims 1, 2 and 5-13 stand rejected under 35 U.S.C. §101 as not being one of the four statutory classes of invention. This rejection is respectfully traversed.

Claim 1 has been amended to more clearly state that the steps of the method are performed by specific components. The storing steps are performed by storing data in either a data store of the scanner or a memory of a computer connected to the scanner.

Applicant respectfully submits that such an amendment is consistent with the PTO guidelines issued in the Memorandum for Clarification of “Processes” Under 35 USC § 101 of May 15, 2008 (found at

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section\\_101\\_05\\_15\\_2008.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/section_101_05_15_2008.pdf)), which states that “[t]o qualify as a § 101 statutory process, the claim should . . . identify[ing] the apparatus that accomplishes the method steps”. As claim 1 recites the apparatus or apparati performing each of the steps of claim, claim 1 thereby recites statutory subject matter under 35 USC § 101. Reconsideration and withdrawal of the rejection is respectfully requested.

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Claim 14 stands rejected under 35 U.S.C. §112, first paragraph for failing to comply with the written description requirement. This rejection is respectfully traversed.

The Office objects that the instant application fails to describe the computer software as being stored on a computer readable medium, only that it is stored in a memory. Claim 14 has been amended to recite that the computer software is stored in a computer memory. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the amendments and remarks hereinabove, Applicant respectfully submits that the instant application, including claims 1-2 and 5-16, is in condition for allowance. Favorable action thereon is respectfully requested.

Any questions with respect to the foregoing may be directed to Applicant's undersigned counsel at the telephone number below.

Respectfully submitted,

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